

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE AND SECURITIES REGULATION**

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance and Securities Regulation, pursuant to the authority set forth in section 12(f) of the Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982, (D.C. Law 4-155; D.C. Official Code § 31-2411(f) (2001)), hereby gives notice of the adoption of the following amendments to be included in Title 26 of the District of Columbia Municipal Regulation ("DCMR"). Notice of the Proposed Rulemaking was published April 2, 2004 (51 DCR 3468). These final rules will be effective upon the publication of this notice in the D.C. Register.

These rules are being republished so as to renumber and reconcile two separate sets of amendments that were published in final form on December 20, 2002 (49 DCR 11395) and October 3, 2003 (50 DCR 8192), respectively. In relevant part, the former set of amendments require the District of Columbia Automobile Insurance Plan ("Plan") to: establish a procedure for the distribution of risks assigned to insurance companies, make assignments to any company with a private passenger nonfleet quota; provide the basis of distribution of premiums, losses and expenses of the Commercial Automobile Insurance Procedure ("CAIP"); describe CAIP eligibility requirements and taxicab risks with the option of higher bodily injury and property damage liability limits; describe date provisions for all CAIP risk manual users; and designate types of applicants eligible for CAIP to the Plan.

The latter set of amendments will afford producers registered with the Plan the option of filing application submissions through the Electronic Application Submission Interface ("EASi"). The amendments provide for the registration for access to EASi, operating procedures for the retraction of an EASi reference number, the forwarding of completed and original applications to the Plan, the performance standards pertaining to EASi, and the procedures for handling violations of EASi standards. The EASi will be used to establish the immediate coverage and future effective dates of coverage.

TITLE 26, CHAPTER 6 DCMR IS AMENDED TO READ AS FOLLOWS:

**616 DESIGNATION OF COMPANY AND EFFECTIVE DATE OF
 COVERAGE**

Section 616 is repealed and is amended to read as follows:

- 616.1 Upon receipt of a properly completed application for insurance showing that the applicant is eligible for assignment, and the deposit specified in § 614 of these rules:
- (a) The Plan shall designate a company to which the risk shall be assigned and shall so notify the producer of record; and
 - (b) The notice shall state the date when the coverage is to become effective, which date shall be at 12:01 a.m. on the day following the date of mailing of the properly completed application form

to the Plan Office, as shown by the postmark on the transmittal envelope.

- 616.2 If the postmark is not legible, is a metered mail postmark, electronic stamp, or other Postage service or stamp, the coverage shall be effective 12:01 A.M. on the day the application is received by the Plan Office.
- 616.3 If an application is delivered to the Plan Office by means other than the United States Postal Service (including delivery by means of overnight mail, courier, or other delivery service), the effective date of coverage under the Plan shall be determined as follows:
- (a) at 12:01 a.m. on the following receipt of the application in the Plan Office;
 - (b) if the applicant does not desire coverage until a later date, not to exceed 30 days from the date of application, the applicant shall indicate such date in his application and the Plan shall fix the date when coverage becomes effective at 12:01 a.m. on the desired date of coverage; or
 - (c) in the event there is an in-force policy termination at a date later than the dates under paragraphs (a) and (b) of this subsection, the applicant shall indicate such date in the application and the Plan shall fix the date when coverage becomes effective at 12:01 a.m. on the termination date of coverage of the in-force policy.
- 616.4 If the applicant does not desire coverage until a later date, not to exceed 30 days from the date of application, the applicant shall indicate such date in his application and the Plan shall fix the effective date of coverage as of 12:01 a.m. on the desired date of coverage.
- 616.5 If there is in force a policy terminating at a date later than the date which would be fixed pursuant to this section, the applicant shall indicate that date in his or her application and the Plan shall fix the date when the coverage becomes effective at 12:01 a.m. on the stated termination date of the policy in force.
- 616.6 For the purposes of this section, the postmark date which is to be recognized by the Plan shall be the postmark date of the United States Postal Service and shall not include a metered mail postmark, electronic stamp, or other postage service or stamp.
- 616.7 If the applicant requires that the coverage applied for become effective at the time of application, the producer of record shall indicate the time and date when coverage is required. The coverages and limits for which the applicant is applying shall become effective as of the time the application is completed. The producer of record and the applicant shall certify in the application the date (day, month, and year) and time (hour, a.m. or p.m.) that the application was written.
- 616.8 The producer of record shall forward to the Plan Office, no later than the first working day after the application is written, two copies of the application, and shall supply the applicant with a copy of the application duly executed by the producer.

- 616.9 The producer of record shall maintain appropriate records of all risks for which he or she has designated the time and data of coverage. The producer of record shall permit inspection or photocopying of such office records by the Manager or by a company representative. This inspection or photocopying shall be limited to situations where the date or hour of coverage is in question due to the occurrence of an accident or claim arising under the policy issued under this section.
- 616.10 In no event shall coverage be effective prior to the time shown on the application, nor shall any failure on the part of the producer of record to properly perform under the provisions of this section prejudice the rights of an applicant with respect to the 30-day period of coverage provided in the Evidence of Insurance section of the application.
- 616.11 The Plan shall forward to the designated company the original copy of the application form, the notice of the effective date of coverage, and the deposit. The deposit shall be credited by the company against the policy premium.
- 616.12 Applications assigned through Commercial Automobile Insurance Procedure ("CAIP") are subject to the provisions of §§ 616.1 through 616.13 and § 633.57, unless otherwise stated below.
- 616.13 For CAIP applications requiring filings and limits in excess of \$ 500,000 combined single limit coverage, upon receipt of the application for insurance properly completed and the deposit specified in § 614, and if the application form shows that the applicant is eligible for coverage, the Plan shall designate a servicing carrier to which the application shall be assigned and shall so advise the producer of record and state in such notice when the coverage shall be effective.
- 616.14 For those CAIP applicants requiring filings or a limit in excess of \$ 500,000 combined single limit coverage, coverage is effective on a date specified by the applicant, which may not be earlier than 15 calendar days following the Plan assignment date shown on the Notice of Designation if:
- (a) An applicant is found ineligible for coverage through the Plan within 15 calendar days following the Plan assignment date shown on the Notice of Designation, a notice of ineligibility will be mailed by the servicing carrier prior to the date upon which coverage would have been effective. Such notice shall state the reason for ineligibility and shall be mailed to the insured with a copy to the producer of record;
 - (b) An applicant is found ineligible for coverage through the Plan after 15 calendar days have lapsed following the Plan assignment date shown on the Notice of Designation, cancellation shall be in accordance with § 625; or
 - (c) For CAIP risks which were assigned under §§ 616.1 through 616.13 but following the assignment date request either limits in excess of \$

500,000 combined single limit or filings (ICC, PUC, etc.), the requested endorsement may take effect no earlier than 15 calendar days following the receipt of the request for higher limits or filings.

- 616.15 The producer of record may use Electronic Application Submission Interface (EASi) to transmit the application electronically to the Plan Office.
- 616.16 Coverage shall become effective in accordance with Section 616.1, 616.2, 616.3, 616.4 or 616.5 provided all of the following requirements are met:
- (a) the producer of record and the applicant shall certify on the application prescribed by the Plan the date (day, month, and year) and time (hour, A.M. or P.M.) that the application information was completed;
 - (b) the producer uses EASi described above; and
 - (c) the original and one copy of the paper application produced by EASi and deposit premium must be mailed to the Plan in accordance with Section 616.8. If the original and one copy of the paper application produced by EASi and deposit premium are not mailed or delivered to the Plan Office in accordance with Section 616.8, the Plan will consider this a producer violation of performance standards.
- 616.17 For the purposes of this Section, the Postmark to be recognized by the Plan shall be the Postmark of the United States Postal Service. A metered mail postmark, electronic stamp, or other postage service or stamp shall not be considered a postmark of the United States Postal Service for the purpose of effecting coverage.
- 616.18 The producer of record completing and signing the application may not transmit the application using EASi until the deposit premium has been received and the application for coverage has been completed.
- 616.19 Appropriate records of all risks submitted using EASi must be maintained. The producer agrees to permit the inspection or photocopying of such office records by the Plan or by a company representative.
- 616.20 Following assignment of an EASi reference number and prior to the mailing of a completed signed application to the Plan, the producer of record may complete and mail a Retraction Form to the Plan if:
- (a) the applicant has notified the producer of record that coverage through the Plan is no longer required, or
 - (b) the producer of record has made an error in the information provided, or
 - (c) the producer of record has, in error, requested more than one reference number for the same application.
- 616.21 The producer of record shall complete the Retraction Form and forward it to the Plan no later than the first working day after the date the application is voided. If the Plan does not receive the Retraction Form within 20 days after the date of assignment of the EASi reference number, the producer to

whom the reference number is assigned will be considered in violation of performance standards.

- 616.22 If EASi is not available due to the failure of transmission or receiving equipment as a result of a disaster or emergency, the producer of record must submit an original and one copy of the application form in accordance with Section 616.
- 616.23 The Plan shall maintain a record of producer violations of EASi in accordance with Section 630. Violation of procedures of EASi outlined in this section may result in referral to the Governing Committee.
- 616.24 Access to EASi shall not be construed as constituting the producer as an agent of the Plan or any company to which an applicant is assigned. In all transactions between the applicant and the Plan, the producer shall be deemed to be the agent of the applicant and not the agent of the Plan or any company to which an applicant is assigned.
- 616.25 If for any reason the applicant refuses to accept the policy, the designated company shall retain the short rate earned premium for the period of coverage, or the minimum policy premium prescribed in the Automobile Insurance Plan Manual of Rules and Rates, whichever is greater, and return the balance to the applicant.
- 616.26 If the Applicant is eligible under the Plan, and the applicant or spouse requires a financial responsibility certificate (SR-22), the Plan shall, on behalf of the assigned carrier, issue the certificate and file with the proper authority and send a copy to the company. All certificates shall be effective at 12:01 a.m. on the date specified in the notice of assignment. Filing of the certificate by the Plan shall be limited to original assignments.

631 CHANGE OF OWNERSHIP OR TRANSFER OF LOSS EXPERIENCE

Section 631 is repealed and amended to read as follows:

- 631.1 All experiences of commonly owned entities (as determined in §§ 631.5 through 631.7 of these rules) and insured in the Plan, should be written on the same policy and combined for rating purposes. All entities of a risk will be combined when determining eligibility for experience rating. All previous experience of a risk will continue in the experience rating subject to the provisions of §§ 631.2 through 631.6.
- 631.2 The experience for any entity undergoing a change in ownership shall be excluded from future experience ratings only if each of the following conditions are met:
- (a) The change must be a material change such that the entire ownership interest after the change had no ownership interest before the change. A transfer of ownership to a family member (whether natural or by law), a household resident, or a previous owner is not considered a change in ownership; and

- (b) The change in ownership is accompanied by a change in company management. A change in company management is defined as including all of the following, but not limited to, the chairman of the board, president, partners, and other executive officers.
- 631.3 Entities with a majority (more than 50%) common ownership interest will be combined for rating purposes.
- 631.4 Determination of majority ownership is based on the following:
 - (a) Majority of issued voting stock;
 - (b) Majority of the members if no voting stock is issued;
 - (c) Majority of the board of directors of comparable governing body if (a) or (b) of this subsection are not applicable; or
 - (d) Participation of each general partner in the profits of a partnership. Limited partners are not considered in determining majority interest.
- 631.5 If the rules above provide for more than one possible combination of entities, the combination involving the most entities shall be made. However, the experience of any entity may be used in only one combination.
- 631.6 Any change in ownership, including legal status and reincorporation, necessitates a new application, with the appropriate deposit, be submitted to the Plan for assignment.
- 631.7 The insured must report any change to the insurer, in writing, within 30 days of such change. The type, nature, and details of the change must be provided to the insurer for purposes of determining eligibility for such change as stated in §§ 631.2 through 631.6. The appropriate information must be provided on the Name or Ownership Change form, approved for use in the Plan, fully completed and signed by the insured. The Name or Ownership Change form is available from the Plan or insurer upon request. Failure of the insured or producer to provide complete information on the approved form may delay a return premium due the insured pending receipt of the completed form. Upon the request of the insurer, a Name or Ownership Change form must be fully completed and signed by the insured within 10 days of the date of the request. Failure of the insured or producer to return the fully completed and signed form following two written requests by the insurer, could result in loss of coverage as stated in § 625 of these rules.

634 REGISTRATION TO ACCESS THE ELECTRONIC APPLICATION SUBMISSION INTERFACE (EASI)

A new section 634 is added to read as follows:

- 634.1 Producers licensed to transact automobile insurance in the District of Columbia, must be registered to access EASI, which is available for

private passenger applications. A producer cannot access EASi unless registered with the Plan. Each producer will be provided with the rules and prescribed procedures for EASi.

- 634.2 A registration identification code may be obtained by completing an Application for Registration to Access the Electronic Application Submission Interface. The application may be obtained by contacting the Plan Office or in electronic format by accessing www.aipso.com/dc. The completed application accompanied by a copy of a valid producer's license must be submitted to the Plan by mail or by fax (804) 217-9950.
- 634.3 Within five working days following receipt of the application, the Plan shall approve any application that meets all requirements. However a producer whose privilege to use EASi has been previously revoked or suspended shall be subject to the following exceptions:
- (a) A producer whose access to EASi has been revoked shall not be eligible to reapply for registration until all outstanding violations are resolved. Upon reapplication, the producer must demonstrate to the satisfaction of the Governing Committee the producer's ability to comply with EASi standards and procedures. In its review of the reapplication, the Governing Committee may deny or grant the reapplication or grant the reapplication with certain restrictions or conditions.
 - (b) If a producer's access to EASi has been suspended, the producer's access to EASi shall automatically be reinstated effective the day following the termination date of the suspension provided all outstanding violations have been resolved.